



SENDAT POLICY

This policy is reviewed biennially by the Provision, Standards & Attainment (PSA) Committee.

To be read in conjunction with but not limited to:

- SENDAT Staff Code of Conduct
- SENDAT Acceptable Use of IT policy
- SENDAT Grievance policy and procedure
- SENDAT Capability policy and procedure
- SENDAT Complaints procedure
- SENDAT Bullying and Harassment policy
- SENDAT Whistleblowing policy

and other relevant policies and procedures

History of Document

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Approved by:	SENDAT PSA Committee:
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Directors:	Received by the SENDAT Full Trust Board:

Monitoring arrangements

Regular monitoring by:	SENDAT HR Team Trust Leadership Group (TLG)
Method:	HR team oversight of all formal Disciplinary procedures HR advice to School / AP leadership teams in all cases at the informal stage HR reports to TLG and PSA Committee
Frequency:	Ongoing oversight, half-termly reports to TLG and Trustees



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SENDAT Staff Disciplinary Policy and Procedure

1. STATEMENT OF INTENT

- 1.1 SENDAT is a Multi Academy Trust specialising in the care and education of young people with Special Educational Needs and Disabilities. This policy should be considered in the light of this context and the complexity of need that is accommodated within the Trust and its constituent Schools / Alternative Provisions (APs).
- 1.2 This policy aims to:
- Help and encourage all employees to achieve and maintain satisfactory standards of conduct
 - Set out the procedures for when an employee's conduct falls below the expected standard
 - Ensure that all employees are treated fairly and consistently when a disciplinary issue is being dealt with
13. The SENDAT Board of Directors recognises the entitlement of a work/life balance for all staff colleagues as established in their terms and conditions of working. Consequently, this policy has been workload impact assessed (see Appendix) and SENDAT Schools/APs will organise all activities relating to this policy within normal working hours.
- 1.4 The SENDAT Board of Directors is committed to ensuring that this policy is applied in a way that is fair and non-discriminatory.



2. LEGISLATION AND GUIDANCE

2.1 We are required to set out our disciplinary procedures under general employment law. These procedures also comply with our funding agreement and articles of association.

2.2 All SENDAT Staff policies and procedures may be accessed in SharePoint:
<https://priorsuffolksch.sharepoint.com/sites/SENDATEMPLOYEEINFORMATIONHUB/Shared%20Documents/Forms/AllItems.aspx?id=%2Fsites%2FSENDATEMPLOYEEINFORMATIONHUB%2FShared%20Documents%2F01%20HR%20Finance%20S%26P%20H%26S%20policies%20%2D%20staff%20shared&viewid=af03f71c%2D986a%2D42dd%2D86fe%2Dc63e92929d9b>

Paper copies of all SENDAT policies and procedures are available upon request to the HR team:

Email: hr@sendat.academy

3. DEFINITIONS

3.1 A **disciplinary issue** will arise when a staff member has not behaved to the standard expected of them

3.2 Appendix 1 sets out a non-exhaustive list of examples of what we define as **misconduct and gross misconduct**. For the purpose of this policy, misconduct does not cover staff capability or poor performance issues. These are addressed in our Staff Capability policy and procedure.

4. DISCIPLINARY PROCEDURES

4.1 Minor disciplinary issues will be dealt with informally at first, and will be escalated only where:

- There has been no resolution
- The issue is more serious
- There are repeated or multiple instances of misconduct
- There is suspected gross misconduct

4.2 When dealing with an issue informally, the employee's line manager will organise a brief meeting with the employee and set out the concerns. They will remind the employee of the expected standard of behaviour and consider what support is needed to help them improve. Notes will be taken and forwarded to the SENDAT HR team for retention on the individual's confidential HR file, for reference purposes only. These notes will not constitute a formal disciplinary sanction of any description.

4.4 If the issue cannot be dealt with informally, formal procedures will begin. The employee will be notified of this in a face-to-face meeting with their line manager to be held in person or over video conferencing if necessary. This will be followed up in writing.



Suspension

- 4.6 In some circumstances it will be appropriate to suspend a member of staff temporarily, for example, where there is suspected gross misconduct. This in itself does not amount to guilt or constitute disciplinary action.
- 4.7 Where this is necessary:
- I. The Headteacher / Head of School/AP must authorise the suspension. If it is the Headteacher / Head of School/AP who is the subject of the disciplinary procedure, the CEO must authorise the suspension
 - II. The staff member will be informed of the suspension in a face-to-face meeting, held in person or over video conferencing if necessary, followed by a notification in writing within five working days
 - III. The employee will be permitted to be accompanied to the meeting by either a work colleague or trade union representative
 - IV. The staff member will be suspended on full pay

Investigation

- 4.8 An independent investigating officer will be appointed who will normally be a member of the School/AP leadership team, or a member of the SENDAT TLG.
- 4.9 Before a disciplinary hearing takes place, the investigating officer will gather the facts of the case and evidence. The investigating officer will, if necessary, hold investigatory meetings (in person or over video conferencing).
- 4.10 The employee will be informed of the outcome of the investigation in writing.

Investigation outcome

- 4.13 If the investigating officer determines that the matter should move forward to a formal disciplinary hearing. This may be conducted by;
- The Headteacher / Head of School/AP **or**
 - A fellow member of the SENDAT TLG **or**
 - A SENDAT Trustee **or**
 - A panel consisting of three of the above
- 4.12 The person conducting the hearing must be separate from the investigating officer.
- 4.13 Any formal disciplinary hearing will be attended by a member of the SENDAT HR team whose role will be to oversee the procedure and act as Clerk.

Notification

- 4.14 If it is decided that there is a disciplinary case to answer, the employee will receive a written notification 5 working days before the hearing. The meeting could be sooner if it is agreed by both parties. The notification will include:
- Details of the alleged misconduct and its possible consequences



- Copies of any written evidence, including witness statements
- The time, date and location of the disciplinary meeting (including the details if the meeting is to be held over video conferencing, if relevant)
- A statement that the employee has the right to be accompanied by a work colleague or a trade union representative
- Notification that the employer intends to call witnesses (if relevant)
- If the employee intends to call a witness, they should notify the employer.

Disciplinary hearing

- 4.15 Before the hearing, the employee will receive a copy of all evidence that will be relied upon during the procedure.
- 4.16 At the hearing, the person conducting the hearing will explain the case against the employee and go through the evidence that has been gathered. The person may choose to have the investigating officer present the management's case.
- 4.17 The employee will be allowed to set out their case and answer any allegations that have been made. The employee will also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They will also be given an opportunity to raise points about any information provided by witnesses.
- 4.18 Employees have a statutory right to be accompanied at a meeting that may result in a formal warning being issued, disciplinary action being taken, or the confirmation of either of these.
- 4.19 The employee has the right to be accompanied by a work colleague or a trade union representative. Employees must make the request in advance of the meeting, to allow the School/AP or central Trust line manager to prepare and to ensure the employer knows who the companion will be.
- 4.20 If an employee's chosen companion will not be available to meet at the proposed time, the hearing will be postponed to a time proposed by the employee, as long as the alternative time is reasonable and not more than 5 working days after the original date.
- 4.21 The companion can address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the hearing and confer with the employee during the hearing. The companion does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.

Taking appropriate action

- 4.22 The hearing will be adjourned and a decision about whether further disciplinary action is necessary will be taken. If it is not possible to make a decision within a reasonable time on the day of the hearing (for example, if additional matters have come to light which require further investigation), the employee will be informed of the decision in writing, normally within 5 working days. This period may be extended if necessary to allow time for an adequate investigation, but will not be prolonged unnecessarily.



4.23 Actions taken may be:

- **A verbal or informal warning** where it is decided that the action was not serious enough to warrant a formal written warning. This may be accompanied by a notification that arrangements will be put in place to improve the staff members' behaviour, such as a training course or occupational health support
- **A first written warning** for a first instance of misconduct. A further instance may result in a final written warning. A first written warning will remain on the employee's personnel file for 12 months. The written warning will explain that a further instance of misconduct or no change in behaviour within a given timeframe will result in a final warning
- **A final written warning** where the employee has already received a first warning, or where the employee's misconduct was sufficiently serious. A further instance may result in demotion or dismissal
- **Dismissal** where there has been gross misconduct or a final written warning has already been given

4.24 The Trust will refer a case of teacher gross misconduct to the National College for Teaching and Leadership (National College) if there is a reasonable belief that the case is so severe that the National College should consider whether the teacher should be prevented from teaching. The Trust will also refer cases to other relevant authorities where appropriate.

Dismissal

4.25 Once the decision to dismiss has been taken, the individual who has conducted the disciplinary hearing will dismiss the staff member with notice i.e.

- The Headteacher / Head of School/AP **or**
- A fellow member of the SENDAT TLG **or**
- A SENDAT Trustee **or**
- The Chair of a panel consisting of three of the above

4.26 Formal notice of the dismissal will be confirmed, in writing, within 5 working days. The formal notice of dismissal will include information about the appeals process.

Appeals process

4.27 The employee has the right to appeal any sanction. Appeals must be made in writing within 10 working days of the decision, setting out at the same time the grounds for appeal.

4.28 A disciplinary appeals officer/panel will be appointed.

4.29 The appeal will be dealt with impartially and by Senior Leaders or Trustees who have not previously been involved in the case.

4.30 The appeal hearing will be attended by a member of the SENDAT HR team whose role will be to oversee the procedure and act as Clerk.



- 4.31 Appeals will be heard without unreasonable delay and at an agreed time and place (in person, or over video conferencing if relevant). Employees' statutory right to be accompanied by a companion will apply as with formal disciplinary hearings.
- 4.32 The employee will be informed in writing of the results of the appeal hearing within 3 working days.

Special cases

- 4.33 If the employee involved in a disciplinary procedure is also the trade union representative, SENDAT will notify the union and discuss the matter with an official employed by the union before action is taken, after obtaining the employee's agreement. The procedure will continue as normal.
- 4.34 If the employee who is subject to disciplinary procedures raises a grievance about the disciplinary allegations or the procedure itself, the grievance procedure will run concurrently.
- 4.35 If the employee who is subject to disciplinary procedures raises a grievance about something unrelated to the disciplinary, consideration will be given to pausing the disciplinary while the grievance is addressed.

5. RECORD KEEPING

- 5.1 Minutes will be kept of all interviews and meetings. Where possible, these will be confirmed as an accurate reflection of what was discussed during the meeting.
- 5.2 Records of all materials relating to the disciplinary process will be kept securely, only for as long as necessary and in line with data protection law, SENDAT privacy notices and the SENDAT records management policy/record retention schedule.
- 5.3 If disciplinary action is taken, a record of this will be added to the employee's confidential HR file.
- 5.4 SENDAT will disclose any proven disciplinary offences by a staff member if a reference is requested by a future employer.

6. MONITORING ARRANGEMENTS

- 6.1 This policy will be reviewed every 3 years, but can be revised as needed.
- 6.2 This policy will be approved by the SENDAT Provision, Standards and Attainment (PSA) committee of the SENDAT Board of Trustees

7. LINKS WITH OTHER POLICIES

- 7.1 This policy links with our policies on:
- SENDAT Staff Code of Conduct
 - SENDAT Acceptable Use of IT policy
 - SENDAT Grievance policy and procedure
 - SENDAT Capability policy and procedure
 - SENDAT Complaints procedure
 - SENDAT Bullying and Harassment policy
 - SENDAT Whistleblowing policy
- and other relevant policies and procedures



APPENDIX 1

1 Potential Misconduct

It is not possible to specify all forms of behaviour that will result in disciplinary action. Each case must be judged in the light of the circumstances and context surrounding it. Varying circumstances may well allow different disciplinary actions or no disciplinary action at all to be taken for what are similar offences

The following examples give an indication of the SENDAT position as to the types of behaviour which constitute misconduct. The examples are not exhaustive and omissions from the list are not in themselves grounds for appeal. There is some overlap between the examples below and those listed in section 2 (examples of Gross Misconduct). This allows for appropriate consideration of the seriousness of the alleged misconduct/gross misconduct. The appearance or absence of an example in one schedule or the other should not substitute proper consideration of circumstances surrounding each case, or be in itself grounds for appeal.

Employees should, so far as is reasonably practicable, be familiar with the working rules and procedures relating to their own Trust/department and their particular area of work. These rules may be in the form of codes of practice, SENDAT policies and procedures, induction material, manuals, posters, notices and periodic memoranda and failure to have due regard to these may be grounds for disciplinary action in relation to general misconduct or professional negligence.

Examples of potential Misconduct

(a) Professional negligence, misconduct, omission or, in certain situations failure in performance to a reasonable and acceptable standard;

Examples include: breaches of safeguarding procedures; failure to report or properly comply with SENDAT procedures for reporting allegations of abuse; failure to observe proper professional boundaries in staff-pupil relationships; failure to exercise reasonable care for the safety and welfare of oneself, other employees, students, Directors, members of the public or others on Trust premises; actions causing loss, damage or injury through negligence; failure to use public funds in a proper and lawful way or observe basic 'value for money' tests;

(b) Failure to observe Trust/department rules and procedures or those relating to the employee's area of work;

Examples include: those relating to time-keeping, attendance, signing in/out, proper reporting of sickness absence, smoking;

(c) Persistent lateness or absence;



(d) General misconduct;

Examples include rudeness, insolence, drunken or aggressive behaviour, use of foul or abusive language, sexist, racist or other offensive behaviour;

(e) Expressing personal beliefs in ways which exploit students' vulnerability or might lead them to break the law;

(f) Cases of harassment or bullying, including cyber bullying;

(g) Cases of discrimination, harassment or victimisation contrary to the law and/or SENDAT's equalities policies, including giving instructions or bringing pressure to bear on others to do so or malicious complaints against or victimisation of employees using Trust procedures e.g. harassment, disclosure of malpractice etc;

(h) A breach of health and safety rules, failure to observe health and safety policies and procedures, or endangering self or others;

(i) Misuse of Trust property or that belonging to others while in the course of work;

(j) Use of paid time or the Trust's materials or facilities for purposes unrelated to the job;

(k) Taking unauthorised leave;

(l) Insubordination, non-compliance, failure to obey a reasonable and lawful instruction or direction, or conduct intended to otherwise undermine;

(m) Bringing the Trust, service or profession into serious disrepute, including failure to observe reasonable standards of ethics and behaviour (or appropriate professional standards) within and outside work, or to have proper and professional regard for the ethos, policies and practices of the Trust. This might include information on social networking sites, particularly where this involves malicious, defamatory or abusive communication;

(n) Misuse of the internet or inappropriate use of electronic mail;

(o) Wrongful sharing of security passwords in connection with building security and computer systems;

(p) Unauthorised or inappropriate disclosure of confidential information, failure to observe data protection principles or the use of such information or official contacts for personal interest or gain;

(q) Misuse of SENDAT's name, equipment, materials or information, including copyright and other intellectual property rights;

(r) Failure to disclose an interest in SENDAT contracts;



(s) Deliberate failure to disclose unspent criminal convictions or, in respect of employment exempt from the terms of the Rehabilitation of Offenders Act (i.e. employment with children or young people), failure to disclose any Police warning, caution, bind-over or conviction before and during relevant employment.

2 Potential Gross Misconduct (which may justify dismissal without notice)

As stated above, it is not possible to specify all forms of behaviour that will result in disciplinary action. Each case must be judged in the light of the circumstances and context surrounding it. Varying circumstances may well allow different disciplinary actions or no disciplinary action at all to be taken for what are similar offences

The following examples give an indication of the Director's position as to the types of behaviour which constitute gross misconduct. The examples are not exhaustive and omissions from the list are not in themselves grounds for appeal. There is some overlap between the examples below and those listed in Schedule 1 (examples of Misconduct). This allows for appropriate consideration of the seriousness of the alleged misconduct/gross misconduct. The appearance or absence of an example in one schedule or the other should not substitute proper consideration of circumstances surrounding each case, or be in itself grounds for appeal.

In addition, employees should, so far as is reasonably practicable, be familiar with the working rules and procedures relating to their own Trust/department and their particular area of work. These rules may be in the form of codes of practice, SENDAT policies and procedures, induction material, manuals, posters, notices and periodic memoranda.

Examples of potential Gross Misconduct

(a) Serious professional negligence, misconduct, omission or, in certain situations failure in performance to a reasonable and acceptable standard;

(b) Examples include: serious breaches of safeguarding procedures; failure to report or properly comply with SENDAT procedures for reporting allegations of abuse; failure to observe proper professional boundaries in staff-pupil relationships; abuse of a position of trust; serious failure to exercise reasonable care for the safety and welfare of oneself, other employees, students, Directors, members of the public or others on Trust premises; actions causing loss, damage or injury through serious negligence; serious failure to use public funds in a proper and lawful way or observe basic 'value for money' tests;

(c) Threatened or actual physical assault or violence towards employees, students, Directors, or others on Trust premises or in the course of work;

(d) Serious sexual misconduct;

(e) Abuse against children or young people;



- (f)** Expressing personal beliefs in ways which exploit students' vulnerability or might lead them to break the law;
- (g)** Serious cases of harassment or bullying, including cyber bullying;
- (h)** Serious cases of discrimination, harassment or victimisation contrary to the law and/or SENDAT's equalities policies, including giving instructions or bringing pressure to bear on others to do so or malicious complaints against or victimisation of employees using Trust procedures e.g. harassment, disclosure of malpractice etc.;
- (i)** Malicious or vexatious complaints against colleagues or other members of the Trust community;
- (j)** Serious offences involving the misuse or illegal possession of drugs, and/or serious cases of being under the influence of alcohol or drugs at work;
- (k)** A serious breach of health and safety rules, failure to observe health and safety policies and procedures, or endangering self or others;
- (l)** Deliberate and serious damage or misuse of Trust's property or that belonging to others while in the course of work;
- (m)** Theft or misappropriation of cash or property belonging to the Trust, fellow employees, students and others at Trust;
- (n)** Fraud or dishonesty, including falsely reporting sickness absence, falsification of work records, timesheets, travelling and subsistence or similar claims, or serious use of paid time or the Trust's materials or facilities for purposes unrelated to the job;
- (o)** Taking significant unauthorised leave;
- (p)** Serious insubordination, non-compliance, failure to obey a reasonable and lawful instruction or direction, or conduct intended to otherwise undermine;
- (q)** Bringing the Trust, service or profession into serious disrepute, including failure to observe reasonable standards of ethics and behaviour (or appropriate professional standards) within and outside work, or to have proper and professional regard for the ethos, policies and practices of the Trust. This might include information on social networking sites, particularly where this involves malicious, defamatory or abusive communication;
- (r)** Serious misuse of the internet or inappropriate use of electronic mail, including deliberately accessing or sharing pornographic, offensive or obscene material;
- (s)** Deliberate and wrongful disclosure of security passwords in connection with building security and computer systems;



- (t)** Serious unauthorised or inappropriate disclosure of confidential information, failure to observe data protection principles or the use of such information or official contacts for personal interest or gain;
- (u)** Serious misuse of SENDAT's name, equipment, materials or information, including copyright and other intellectual property rights;
- (v)** Failure to disclose an interest in SENDAT contracts;
- (w)** False statements or failure to disclose relevant information in applications for employment, including any personal incapacity which may be incompatible with the satisfactory discharge of the duties and responsibilities of the job;
- (x)** Deliberate failure to disclose unspent criminal convictions or, in respect of employment exempt from the terms of the Rehabilitation of Offenders Act (i.e. employment with children or young people), failure to disclose any Police warning, caution, bind-over or conviction before and during relevant employment.

3 Some Reasons Which Might Justify Dismissal With Notice

As distinct from gross misconduct, for which the normal sanction is dismissal without notice, dismissal will normally only take place after due warning through the disciplinary procedure. However, there are a limited number of circumstances which fall short of gross misconduct where the Directors may determine that an employee shall cease to work at SENDAT without prior warning being issued. These are circumstances where the action of the employee has broken the mutual trust and confidence necessary to sustain the employment relationship. The following is a non-exhaustive list of circumstances which may give rise to such a determination:

- (a)** Behaviour of a serious or criminal nature outside employment the nature of which makes continued employment impossible.
- (b)** Committal to prison for an offence which is of such a kind, or entails a sentence of such length, as to make continued employment impossible.

Depending on the seriousness of such matters, dismissal without notice may also be considered



APPENDIX 2

Procedure for a Hearing

Hearings will be held in as informal a manner as possible and the employee will be afforded every reasonable assistance to put his or her case. The conduct of the hearing is at the discretion of the Headteacher / Head of School/AP, other member of the SENDAT TLG or hearing the case, but she or he will allow the parties every reasonable opportunity to present their case.

In the case of an appeal the order of presentation set out below would normally be reversed, with the employee as appellant presenting his or her case first. However, by prior agreement or where the appeal constitutes a re-hearing of the full case, the case against the employee may be presented first as at the initial hearing. Chairs of appeal committees hearing appeals should ensure that all parties have a common understanding and agreement on the order of presentation.

1. Introduction

The Headteacher / Head of School/AP, other member of the SENDAT TLG hearing the case will ensure that those present are introduced to each other and that they are aware of the procedure to be followed.

2. Presentation of the Allegations

The person presenting the case against the employee may make an opening statement outlining the case. The person or committee hearing the case and the employee responding to it may ask questions.

She or he will then call any witnesses and ask them to give their evidence. The employee or his or her representative may then ask questions of each witness. The person or committee hearing the case may also ask questions of any witness. The person presenting the case may then re-examine the witness.

Where evidence is presented in the form of documents, the person presenting the case or an appropriate witness will explain the nature and significance of the documents.

3. The Employee's Case

The employee or his or her representative may make an opening statement. The person or committee hearing the case and the person presenting the case against the employee may ask questions.

She or he may call any further witnesses and invite them to give their evidence. The person presenting the case against the employee may ask questions of each witness after she or he has



given his or her evidence. The person or committee hearing the case may then ask questions. The employee or his or her representative may re-examine the witness.

Where there is any documentary evidence, the employee or any witness on his or her behalf will explain its significance.

4. Re-examination

Both parties will be asked if they wish to re-examine any evidence. The person or committee hearing the case may also do so at its discretion.

5. Final Statements

The person presenting the case against the employee may make a final statement. The employee or his or her representative may then also make a final statement.

6. Adjournment

Either party may ask for an adjournment at any stage. The decision to adjourn is at the discretion of the Chair, who will consider a request in the light of the reason given for it.

7. Consideration of the Case

All parties will withdraw. The CEO/Headteacher or the committee will deliberate. An HR advisor may be present at these deliberations to advise on procedural matters.

If it is necessary to recall either party or any witnesses, to resolve a point of uncertainty, both parties will be invited to be present, whether or not the point of doubt concerns one party or both.

8. Decision

If possible the decision will be communicated orally to the employee after the hearing. The decision will be confirmed in writing



APPENDIX 3

WORKLOAD IMPACT ASSESSMENT CHECKLIST

CHECKLIST	YES/NO
This policy complies with and is consistent with the contractual entitlements of all staff colleagues affected by this policy, either directly or indirectly.	Yes
This policy and any related procedures was introduced following full consultation with staff and recognised TU representatives.	Yes
This policy and any related procedures include a specific statement regarding workload impact.	Yes
The impact of this policy and related procedures is that they have not added additional hours of working.	Yes
This policy does not duplicate any other existing SENDAT policy.	It does not
All policies are regularly reviewed in order to assess whether they are outdated and/or unnecessary.	Yes
All SENDAT Schools / APs have identified the resources necessary to support the policy, including staff time, any additional staffing and appropriate equipment.	Yes
All staff colleagues affected by this policy will be trained where necessary to ensure the policy and any related procedures will not increase workload to an unacceptable level.	Yes
This policy and related procedures are reviewed regularly to ensure that additional workload burdens have not been added over time.	Yes